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CONTOS & BUNCH
LAWYERS
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SUITE 400
WOODLAND HILLS, CALIFORNIA 91367
(213) 716-9400

Attorneys for Defendant and Cross-Complainant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF)
CALIFORNIA, INC., a California)
corporation,)

Plaintiffs,)

vs.)

GERALD ARMSTRONG, DOES 1)
through 10, inclusive,)

Defendants.)

CASE NO: C 420 153

NOTICE OF MOTION AND MOTION
FOR ORDER COMPELLING PRODUCTION
OF DOCUMENTS AND PAYMENT OF
REASONABLE ATTORNEY'S FEES;
DECLARATION OF JULIA DRAGOJEVIC;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF

DATE: October 28, 1982
TIME: 9:00 A.M.
DEPT: 82

GERALD ARMSTRONG,)

Cross-Complainant,)

vs.)

CHURCH OF SCIENTOLOGY OF)
CALIFORNIA, a California)
corporation, et al.,)

Cross-Defendants.)

TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 28, 1982, at 9:00
A.M. or as soon thereafter as this matter may be heard in
Department 82 of the above-entitled Court located at 111 North

1 Hill Street, Los Angeles, California, Defendant GERALD ARMSTRONG
2 will move the Court for the following Order:

3 1. An Order compelling Plaintiff CHURCH OF SCIENTOLOGY
4 OF CALIFORNIA to produce for inspection and copying the
5 documents described in the First Request for Production of
6 Documents, request numbers 2, 3, 4, 5, 5a, 6, 7, 8, 9, 10,
7 11, 12, 14, 15 and 16, which Request was served upon Plaintiff
8 on or about August 6, 1982. Plaintiff and its attorneys have
9 failed to produce said documents, which are more particularly
10 set forth and identified in the attached Declaration of
11 Julia Dragojevic.

12 2. An Order directing said Plaintiff to pay reasonable
13 attorney's fees to Defendant's attorneys in the amount of
14 \$400.00 due to Plaintiff's refusal to produce said documents,
15 necessitating time spent in preparing the within Motion and
16 appearing thereon.

17 This Motion is made upon the grounds that the documents
18 and information contained therein are relevant to the subject
19 matter involved in the pending action and are not privileged,
20 and that Plaintiff's failure to respond to said Request is
21 without substantial justification.

22 Said Motion is based upon this Notice, the pleadings,
23 records and files herein, the attached Declaration of Julia
24 Dragojevic, the Memorandum of Points and Authorities, and such
25 other evidence as may be introduced at the hearing of this
26 Motion.

27 DATED: October 4, 1982

CONTOS & BUNCH

28 BY: 

JULIA DRAGOJEVIC
Attorneys for Defendant and
Cross-Complainant GERALD ARMSTRONG

DECLARATION OF JULIA DRAGOJEVIC

I, JULIA DRAGOJEVIC, declare:

1. I am an attorney at law duly licensed to practice before all of the Courts of the State of California, and am an associate in the law firm of CONTOS & BUNCH, attorneys of records for Defendant and Cross-Complainant Gerald Armstrong herein.

2. The Complaint in this action sets forth allegations for conversion, breach of fiduciary duty, impression of a constructive trust, declaratory and injunctive relief. In essence, the Complaint alleges that Plaintiff Church of Scientology of California was in possession of certain materials and artifacts about Dianetics, Scientology, and L. Ron Hubbard, the founder of Scientology, and that Defendant Armstrong was responsible for collecting, cataloging, preserving and otherwise maintaining said information. This activity was known as the Archives Project. Plaintiff Church of Scientology of California alleges that Defendant Armstrong converted certain of the original materials contained in the Archives Project, as well as photographic paper, chemicals, equipment and supplies belonging to Plaintiff Church of Scientology of California for purposes of making copies of materials contained within the Archives Project.

3. On or about August 24, 1982, Plaintiff Church of Scientology of California obtained a Temporary Restraining Order restraining Defendant Armstrong from disseminating, duplicating or otherwise disclosing the documents to third

1 parties. Defendant Armstrong, his agents/representatives,
2 were further ordered to turn the materials over to the
3 Clerk of the Court within ten days, which was completed.
4 A Motion for Preliminary Injunction and Order to Show Cause
5 was set for hearing before the Honorable John L. Cole on
6 September 24, 1982. At the hearing, Judge Cole ruled that
7 the materials would remain in the custody of the Clerk of
8 the Court, but that they could be used and inspected freely
9 for purposes of the within litigation. Judge Cole further
10 ruled that litigants involved with the Church of Scientology
11 in other jurisdictions could inspect and use said materials
12 upon presentation to Judge Cole of a proper order permitting
13 them to do so.

14 4. On or about September 17, 1982, Defendant Armstrong
15 filed a Cross-Complaint against the Church of Scientology of
16 California and its founder, L. Ron Hubbard, alleging causes
17 of action for fraud, breach of contract and intentional
18 infliction of emotional distress. Said Cross-Complaint sets
19 forth extensive allegations of the Church of Scientology of
20 California and L. Ron Hubbard's frauds against Defendant
21 Armstrong over an eleven year period of time.

22 5. On or about August 6, 1982, Defendant Armstrong
23 served a First Request for Production of Documents upon
24 Plaintiff Church of Scientology of California. (A copy of
25 said Request is attached hereto as Exhibit "A" and incorporated
26 herein by said reference.) A response to said Request was
27 served on or about August 24, 1982. (A copy of said response
28 is attached hereto as Exhibit "B" and incorporated herein by

1 said reference.) Of sixteen Requests, Plaintiff Church of
2 Scientology of California produced a document in response
3 to Request number 13. All of the remaining requests were
4 objected to. In that regard, the following Requests for
5 Production are presently in dispute:

6 REQUEST NO. 2:

7 Any and all originals or copies of files, records,
8 memoranda, logs, notes, orders, audio and video recordings
9 of any kind, including transcripts of any audio and video
10 recordings, and any other documentation written material
11 of any kind dealing with the MCCS Mission (Legal Mission).

12 RESPONSE TO REQUEST NO. 2:

13 This request seeks the production, for inspection and
14 copying, of documents/materials dealing with the alleged
15 MCCS (Legal Mission). As the instant litigation involves
16 claims that Defendant converted Plaintiff's property and
17 disclosed confidential information, Plaintiff fails to see
18 how documents sought have any relevance to or could provide
19 data reasonably calculated to the discovery of admissible
20 evidence regarding either party's claim(s) or defense(s).
21 As such, Plaintiff objects to the production of these files
22 which, incidentally, fill at least one five-drawer file
23 cabinet.

24 ARGUMENT:

25 Request number 2 seeks production of documents and
26 materials dealing with the Mission Corporate Category Sort-
27 Out (MCCS) which lasted from January, 1980 to July, 1981.
28 Essentially, this Mission was organized to work out a legal

1 strategy which would protect L. Ron Hubbard from legal
2 responsibility while he maintained control of Scientology
3 organizations through his personal representatives. The
4 information contained in said Mission is highly relevant
5 to the present litigation in that the Cross-Complaint alleges
6 that the allegations set forth were performed by the Church
7 of Scientology of California as agent of L. Ron Hubbard, and
8 that Hubbard is presently concealing his whereabouts to avoid
9 legal responsibility and service of process in the present
10 suit and numerous other suits filed across the United States.
11 It should be noted, that several tapes of conversations of
12 individuals involved with the MCCS Mission are part of the
13 materials presently lodged with the Clerk of the Court, and
14 which are subject to free use and inspection in this litigation.
15 As such, the materials regarding the MCCS Mission are highly
16 relevant and reasonably calculated to lead to the discovery
17 of admissible evidence in this case.

18 REQUEST NOS. 3 AND 4:

19 3. Any and all originals or copies of written contracts,
20 agreements, petitions, schedules, and any other documentation
21 or written communication of Plaintiff dealing with the
22 biography of L. Ron Hubbard.

23 4. Any and all originals or copies of written contracts,
24 agreements, petitions, schedules, and any other documentation
25 or written communication of Plaintiff to Omar V. Garrison
26 dealing with the biography of L. Ron Hubbard.

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1 RESPONSE TO REQUEST NOS. 3 AND 4:

2 These requests seeks the production of documents in
3 possession of Plaintiff relating to the preparation of a
4 biography of L. Ron Hubbard. Plaintiff objects to these
5 requests on the following grounds:

6 a. Lack of Relevance: While Plaintiff asserts in
7 its Complaint that the conversion of such documents by Defendant
8 Armstrong is actionable, the specific contents of such docu-
9 ments is irrelevant to such acts of conversion.

10 b. Information Contained in Such Documents is Not
11 Calculated to Lead to the Discovery of Admissible Evidence:
12 C.C.P. Section 2031 (a) (1) sanctions the production of
13 documents within the scope of C.C.P. Section 2016 (b); more
14 particularly, matters which relate to the claim(s) or defense(s)
15 of any party to the litigation. The documents sought under
16 this request will not provide data which are reasonably
17 calculated to discover admissible evidence as to such claims
18 or defenses. Their contents will not establish whether or
19 not the Defendant substantially interfered with the property
20 or the possessory interest of Plaintiff in such property.

21 c. Burden: The documents sought by the instant
22 request encompass thousands of pages, and are housed in at
23 least fifteen four-drawer file cabinets and in dozens of
24 cartons. Even if these documents had some relevance to the
25 action, the time, effort and expense required to segregate
26 the confidential from the non-confidential materials sought
27 by this and other requests herein would be excessive, if not
28 oppressive. The task required to so segregate and deliver,

1 when weighed against the low probative value of such documents
2 to the litigation, places an unreasonable burden on Plaintiff.

3 For all of the reasons set forth above, Plaintiff
4 objects to the production of the documents/materials sought
5 by Defendant's Request No. 3.

6 ARGUMENT:

7 In relation to his work in the Archives Project, Defendant
8 Armstrong was working as a biography researcher for L. Ron
9 Hubbard, and as part of his duties was required to provide
10 the biographer, Omar V. Garrison, with documents or any other
11 materials and information which would be relevant to the
12 biography of L. Ron Hubbard Mr. Garrison was writing. At
13 the hearing on the Motion for Preliminary Injunction, the
14 question of possession of the documents was a crucial issue
15 facing the Court. Plaintiff Church of Scientology of
16 California alleged that it was safekeeping the Archives
17 materials for Mr. Hubbard, that it had possession of the
18 documents in its building and that it had a historical
19 interest in and special relationship with L. Ron Hubbard
20 as founder. However, the Court noted that the name Church
21 of Scientology of California did not appear on any of the
22 documents submitted to the Court regarding research, writing
23 and publication of the biography of Mr. Hubbard. The
24 allegations of the Complaint itself allege that Defendant
25 Armstrong had been retained to personally coordinate with
26 Omar V. Garrison in providing him with any information he
27 might require, and arranging for any interviews or research
28 that would be of assistance to Mr. Garrison in writing the

1 biography.

2 Based on the foregoing, written contracts, agreements,
3 petitions, schedules and any other documentation or written
4 communication of Plaintiff Church of Scientology of California
5 dealing with the biography of L. Ron Hubbard is highly relevant
6 to the instant case and should be produced for inspection and
7 copying.

8 REQUEST NO. 6:

9 The original eight page AGREEMENT dated October 30, 1980,
10 between Omar V. Garrison and AOSH DK PUBLICATIONS.

11 RESPONSE TO REQUEST NO. 6:

12 The documents sought in these requests apparently relate
13 to correspondence on communications between L. Ron Hubbard's
14 publisher and persons outside the Church of Scientology
15 involved in the preparation and production of a biography
16 of Mr. Hubbard. As such, they are not Plaintiff's documents
17 and, therefore, Plaintiff hasn't the authority to deliver
18 up same to Defendant. Additionally, the documents sought
19 by this request are of no relevance to the instant action
20 as they do not bear on any claim(s) or defense(s) of the
21 parties hereto. On such grounds, Plaintiff objects to
22 these requests to produce.

23 ARGUMENT:

24 The original Agreement between biographer Omar V. Garrison
25 and AOSH DK PUBLICATIONS is highly relevant to the within
26 litigation in that the Agreement states that Mr. Garrison
27 would be provided with a research assistant. Said research
28 assistant was Defendant Armstrong, who aided Mr. Garrison

1 for over a year in researching and providing Mr. Garrison with
2 information regarding L. Ron Hubbard. In that regard, one of
3 Defendant Armstrong's defenses is that he was in rightful
4 possession of the subject materials and documents because
5 he was working directly with the biographer Omar V. Garrison.
6 This Agreement is highly relevant and discoverable evidence
7 in the within litigation.

8 In addition, the Code of Civil Procedure Section 2031(a)
9 provides that a party must produce for inspection and copying
10 any evidence which is in the party's possession, custody and
11 control. There is evidence to show that AOSH DK PUBLICATIONS
12 is a front organization for the Church of Scientology and that
13 the Church of Scientology has control over any documents which
14 this publications organization has.

15 REQUEST NO. 7:

16 Any and all originals or copies of written communications
17 during the year 1980 to AOSH DK PUBLICATIONS and Scientology
18 Publications Organization in Copenhagen, Denmark, dealing with
19 the biography of L. Ron Hubbard.

20 RESPONSE TO REQUEST NO. 7:

21 The documents sought in these requests apparently relate
22 to correspondence on communications between L. Ron Hubbard's
23 publisher and persons outside the Church of Scientology involved
24 in the preparation and production of a biography of Mr. Hubbard.
25 As such, they are not Plaintiff's documents and, therefore,
26 Plaintiff hasn't the authority to deliver up same to Defendant.
27 Additionally, the documents sought by this request are of no
28 relevance to the instant action as they do not bear on any

1 claim(s) or defense(s) of the parties hereto. On such grounds,
2 Plaintiff objects to these requests to produce.

3 ARGUMENT:

4 Again, the issues in dispute in this litigation involve
5 an alleged conversion of certain documents from the Archives
6 Project used in writing the biography of L. Ron Hubbard.
7 Defendant Armstrong alleges that he was in rightful possession
8 of the documents through his work as archivist and biography
9 researcher for Omar V. Garrison. Any originals or copies of
10 written communications during the year 1980 (when Defendant
11 Armstrong became archivist and biography researcher) to
12 AOSH DK PUBLICATIONS and Scientology Publications Organization
13 in Copenhagen, Denmark dealing with the biography of L. Ron
14 Hubbard are highly relevant to the within action. These
15 written communications may indicate further the agreements
16 with respect to the biography of L. Ron Hubbard and the
17 involvement of Defendant Armstrong as archivist and biography
18 researcher. Further, said documents may provide evidence
19 of the allegation that Plaintiff Church of Scientology of
20 California was not involved in the biography project and
21 did not have possession of the documents through the
22 biography project.

23 REQUEST NO. 8:

24 Any and all originals or copies of schedules to the
25 AGREEMENT dated October 30, 1980, between Omar V. Garrison
26 and AOSH DK PUBLICATIONS.

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1 RESPONSE TO REQUEST NO. 8:

2 The documents sought in these requests apparently relate
3 to correspondence on communications between L. Ron Hubbard's
4 publisher and person outside the Church of Scientology involved
5 in the preparation and production of a biography of Mr. Hubbard.
6 As such, they are not Plaintiff's documents and, therefore,
7 Plaintiff hasn't the authority to deliver up same to Defendant.
8 Additionally, the documents sought by this request are of no
9 relevance to the instant action as they do not bear on any
10 claim(s) or defense(s) of the parties hereto. On such
11 grounds, Plaintiff objects to these requests to produce.

12 ARGUMENT:

13 See argument to Request No. 6, above.

14 REQUEST NO. 9:

15 Any and all originals or copies of Suppressive Person
16 Declares on Gerry Armstrong from the Sea Organization dated
17 February 18, 1982.

18 RESPONSE TO REQUEST NO. 9:

19 Plaintiff objects to these requests on the grounds that
20 the materials sought by these requests are of no relevance
21 to the instant action as they do not bear on any claim(s) or
22 defense(s) of the parties hereto.

23 ARGUMENT:

24 The Church of Scientology issues what are called
25 "Suppressive Person Declares" on individuals who the Church
26 of Scientology considers to be enemies. These "Suppressive
27 Person Declares" normally contain the allegations of wrong-
28 doings by the individual "enemy" of Scientology. In this

1 case, two "Suppressive Person Declares" were formulated and
2 sent out on Defendant Armstrong, and contained various
3 allegations of Defendant Armstrong's theft of the documents
4 which are the subject of this litigation. Since Plaintiff
5 Church of Scientology of California is alleging in its
6 Complaint that Defendant Armstrong converted the subject
7 documents, the "Suppressive Person Declare" is highly relevant
8 to the within litigation.

9 REQUEST NO. 10:

10 Any and all originals or copies of files, records,
11 memoranda, logs, notes, orders, audio and video recordings
12 of any kind, including transcripts of any audio and video
13 recordings, any other documentation or written material of
14 any kind dealing with the Committee of Evidence of Guardian
15 Office Members, Flag Conditions Order No. 6439, dated October
16 8, 1981.

17 RESPONSE TO REQUEST NO. 10:

18 Plaintiff objects to these requests on the grounds
19 that the materials sought by these requests are of no relevance
20 to the instant action as they do not bear on any claim(s) or
21 defense(s) of the parties hereto.

22 ARGUMENT:

23 The documents, audio and video recordings of the
24 Committee of Evidence of Guardian Office Members is particularly
25 relevant to the instant litigation in that such evidence would
26 reveal crimes and frauds perpetrated by the Church of
27 Scientology of California. The Guardian's Office or GO has
28 as its function intelligence gathering, covert operations and

1 spying for the Church of Scientology. As part of this function,
2 GO staff members have been involved in numerous illegal activities
3 ranging from burglaries, larcenies, blackmail and frame-ups.

4 In his Cross-Complaint, Defendant Armstrong alleges that the
5 Church of Scientology of California and L. Ron Hubbard perpe-
6 trated numerous frauds upon him, which frauds may be directly
7 related to the documentation resulting from the Committee of
8 Evidence of the Guardian's Office Members. As such, it is highly
9 relevant and discoverable evidence in this case.

10 REQUEST NO. 12:

11 Any and all original Guardian Office files, specifically,
12 Bl files; preclear files; personnel files; and ethics files on
13 Gerry Armstrong.

14 RESPONSE TO REQUEST NO. 12:

15 Plaintiff objects to this request on the grounds of
16 privilege. The "pre-clear" and "ethics" files of parishoners
17 of the Church of Scientology contain information derived from
18 confidential communications between the parishoners and
19 ministers of the Church. Plaintiff Church of Scientology of
20 California asserts the priest-pentitent privilege with respect
21 to contents of such files.

22 Additionally, Plaintiff objects to this request on the
23 ground that the contents of the files sought are not relevant
24 to the instant action as they do not bear on any claim(s) or
25 defense(s) of the parties hereto.

26 Finally, Plaintiff has searched its premises for the
27 files identified in this request and has discovered that the
28 personnel and ethics files of Defendant Armstrong have been

1 removed from their normal location. Perhaps Defendant Armstrong
2 removed same when he severed his relationship Plaintiff.

3 ARGUMENT:

4 All of the documents requested by Request No. 12 involve
5 information obtained on Defendant Armstrong during the time
6 he was a member of the Church of Scientology. Many of the
7 documents bear Defendant Armstrong's signature or contain
8 information which he gave directly to other members of the
9 Church of Scientology through "auditing". In "auditing"
10 a member of the Church of Scientology holds two tin cans
11 in his hands, which cans are connected to a machine called
12 the "E-Meter". The "E-Meter" allegedly works somewhat like
13 a lie detector in that the meter's needle allegedly moves
14 when the individual on the meter has a problem with the
15 question asked. The auditing session can last hours during
16 which time the individual on the meter is asked numerous
17 and detailed questions regarding his life and his "past lives".
18 All of the information obtained during auditing is written
19 down by the auditor and kept in a file called the "preclear
20 file". Many times when individuals leave the Church of
21 Scientology, information from their "preclear files", which cast
22 them (ex-members) in an unfavorable light, is disseminated in the
23 organization and to whomever Scientology sees fit to receive
24 it. Defendant Armstrong's preclear file thus contains infor-
25 mation highly personal to Defendant Armstrong and is not
26 derived from confidential communications between parishoners
27 and ministers of the Church. The information contained in
28 the preclear file is Defendant Armstrong's since it is verbal

1 information Defendant Armstrong supplied to the Church of
2 Scientology about himself. Such information is clearly
3 relevant to the instant lawsuit.

4 Personnel files and ethics files on Defendant Armstrong
5 contain documents which were signed by him or authored about
6 him. Such files were turned over in the case of Peterson,
7 et al. v. Church of Scientology of California, et al. filed
8 in the Central District of California, upon a request for
9 production. There is no reason why the Church of Scientology
10 of California can turn such files over to one person and not
11 to another. Again, both the personnel and ethics files
12 are personal to Defendant Armstrong and are relevant to the
13 instant litigation.

14 Bl files contain information culled by the Guardian's
15 Office regarding Defendant Armstrong. There is no priest-
16 penitent privilege for these files, and since they concern
17 Defendant Armstrong personally, there are highly relevant
18 to the instant litigation.

19 REQUEST NO. 14:

20 Any and all originals or copies of files, records,
21 memoranda, logs, notes, orders, written communication,
22 and any other documentation or written material of any kind
23 concerning Michael Flynn.

24 RESPONSE TO REQUEST NO. 14:

25 These requests seek production of documents/materials
26 concerning Michael Flynn, L. Ron Hubbard, Jr., and Ford
27 Schwartz. Said individuals are not employed by Plaintiff,
28 nor have they had any involvement on behalf of Plaintiff in

1 the Archives Project. Plaintiff objects to this request on
2 the ground that any such materials Plaintiff may have in its
3 possession have no relevance to the instant action in that
4 they do not bear on any claim(s) or defense(s) of the parties
5 hereto.

6 ARGUMENT:

7 Documentation regarding Michael Flynn is essential
8 and relevant to the within lawsuit in that Defendant Armstrong
9 turned over much of the documentation presently with the
10 Clerk of this Court to Michael Flynn, a Boston attorney.
11 Because this was revealed during the deposition of Defendant
12 Armstrong, it is presently an issue in the instant litigation.
13 Any documentation regarding Mr. Flynn is highly relevant
14 and discoverable evidence in that it would be directly related
15 to the issues of conversion, etc., alleged in the Complaint.

16 REQUEST NOS. 15 AND 16:

17 15. Any and all originals or copies of files, records,
18 memoranda, logs, notes, orders, written communications and
19 any other documentation or written material of any kind con-
20 cerning L. Ron Hubbard, Jr., aka Ronald de Wulf.

21 16. Any and all originals or copies of files, records,
22 memoranda, logs, notes, order, written communications and
23 any other documentation or written material of any kind con-
24 cerning Ford Schwartz.

25 RESPONSE TO REQUEST NOS. 15 and 16:

26 These requests seek production of documents/materials
27 concerning Michael Flynn, L. Ron Hubbard, Jr., and Ford
28 Schwartz. Said individuals are not employed by Plaintiff,

1 nor have they had any involvement on behalf of Plaintiff in
2 the Archives Project. Plaintiff objects to this request on
3 the ground that any such materials Plaintiff may have in its
4 possession have no relevance to the instant action in that
5 they do not bear on any claim(s) or defense(s) of the parties
6 hereto.

7 ARGUMENT:

8 Documentation regarding Ford Schwartz is relevant to
9 the instant litigation in that Mr. Schwartz was used as a
10 double agent by the Church of Scientology of California to
11 investigate various individuals including Michael Flynn
12 and L. Ron Hubbard, Jr. (the son of L. Ron Hubbard), and
13 many other individuals. The Church of Scientology of
14 California has stated numerous times that it no longer engages
15 in intelligence gathering, covert operations and spying since
16 the conviction of nine top officials of the Guardian's Office
17 in Washington, D.C. Documents regarding Ford Schwartz would
18 serve to indicate that the Church of Scientology of California
19 and the Guardian's Office continue to perform intelligence
20 gathering, covert operations and spying. This is an essential
21 portion of the allegations of the Cross-Complaint and would
22 serve as relevant and discoverable evidence in that regard.

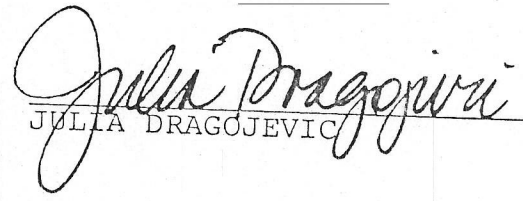
23 Ford Schwartz acted as a double agent on L. Ron Hubbard,
24 Jr., which would be documented by any materials regarding
25 L. Ron Hubbard, Jr. In that regard, any materials regarding
26 L. Ron Hubbard, Jr. would also be relevant and discoverable
27 evidence.

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6. Based upon the foregoing it is respectfully submitted that Plaintiff Church of Scientology of California be compelled to produce the documentation requested in that the contents of such documentation are highly relevant to the instant litigation, and that absent such documentation, Defendant Armstrong will be precluded from properly preparing his case for trial.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of October, 1982, at Woodland Hills, California.


JULIA DRAGOJEVIC

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 1. THIS COURT MAY ORDER COMPLIANCE WITH
3 DEFENDANT'S REQUEST TO PRODUCE AND MAY
4 GRANT DEFENDANT REASONABLE ATTORNEY'S
5 FEES.

6 California Code of Civil Procedure, Section 2034.

7
8 "Any party may serve on any other party a request
9 to produce and permit the inspection and copying or photocopying
10 of [such documents, papers, books, accounts, letters, photo-
11 graphs, objects or tangible things, of a category specified
12 with reasonable particularity in the request, which are relevant
13 to the subject matter of the action, or reasonably calculated
14 to discover admissible evidence relating to any matters within
15 the scope of the examination permitted by subdivision (b) of
16 Section 2016 of the Code], by or on behalf of the party making
17 the request." Section 2031(a) of the California Code of Civil
18 Procedure.

19 " . . . upon the refusal or failure of a party to
20 identify documents, papers, books, accounts, letters, photographs,
21 objects, or tangible things or to permit inspection or entry
22 after having been served with a request under Section 2031,
23 the party serving the request may on like notice and upon a
24 showing of good cause make application for an order to compel
25 compliance with the request. If the court finds that the
26 refusal or failure or objection was without substantial
27 justification . . . the court may require the refusing or
28 failing or objecting party or deponent and the party or attorney

1 advising the refusal or failure to objection or any of them
2 to pay to the examining party the amount of the reasonable
3 expenses incurred in obtaining the order, including reasonable
4 attorney's fees." Section 2034 of the California Code of
5 Civil Procedure.

- 6
7 2. UPON FAILURE BY PLAINTIFF TO RESPOND TO
8 DEFENDANT'S REQUEST TO PRODUCE, DEFENDANT
9 NEED ONLY MAKE A SHOWING OF GOOD CAUSE
10 TO JUSTIFY PRODUCTION OF DOCUMENTS.
11 California Code of Civil Procedure, Section 2034(a).

12
13 In Fuss v. Superior Court, 273 Cal. App. 2d 807, 78
14 Cal. Rptr. 583 (1969), the Court overturned the trial court's
15 denial of Defendant's Motion to Produce Documents where
16 Defendant made a proper showing of good cause. The court
17 stated:

18 "The showing in support of the Motion
19 was not rebutted. Under these circum-
20 stances, the trial court had no option
21 but to grant it."

- 22
23 3. DEFENDANT HAS ESTABLISHED GOOD CAUSE
24 FOR DISCOVERY OF THE REQUESTED DOCUMENTS.

25
26 Defendant herein has sustained his burden under
27 California Code of Civil Procedure Section 2031(a) and 2036
28 of showing good cause to obtain discovery of the requested

1 documents. That Section provides that "a party required to show
2 'good cause' to obtain discovery under under any provision of
3 [The Discovery Act] shall show specific facts justifying dis-
4 covery and that the matter is relevant to the subject matter
5 of the action or reasonably calculated to lead to the discovery
6 of admissible evidence."

7 "The history of Section 2036 indicates that the legis-
8 lative purpose was to prevent abuse of discovery by requiring
9 the moving party to show that the documents sought to be
10 produced for inspection will aid his case . . . The legislature
11 did not provide that the documents must be permissible in
12 evidence, but only that the trial court be afforded the factual
13 data necessary to make an informed ruling on the issues of good
14 cause." Associated Brewers Distributing Company v. Superior
15 Court, 65 Cal. 2d 583, 586, 422 P.2d 332, 55 Cal. Rptr. 772
16 (1967).

17 Clearly, based upon the attached Declaration of Julia
18 Dragojevic, each of the requested documetns is relevant and
19 material to the subject matter of this action.
20

21 4. CONCLUSION.
22

23 For all the reasons set forth above, Defendant Armstrong
24 respectfully requests that this Court order Plaintiff to produce
25 the documents previously described and grant to this moving
26 ///
27 ///
28 ///

1 Defendant the sum of \$400.00 for attorney's fees in the bringing
2 of the within Motion which was necessitated by Plaintiff's
3 refusal to produce said documents.

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5 DATED: October 4, 1982

6 Respectfully submitted,
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8 CONTOS & BUNCH

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